

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Rule making related to artificial and natural marshes

The Natural Resource Commission hereby amends Chapter 45, “Boat Motor Regulations,” Chapter 51, “Game Management Areas,” and Chapter 52, “Wildlife Refuges,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 455A.5(6)“a,” 462A.26(2)“b,” 481A.38, 481A.39 and 481A.48.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 462A.26(2)“b,” 481A.5, 481A.6 and 481A.38(1)“a.”

Purpose and Summary

Chapter 45 regulates the type, size, and horsepower of water vessels accessing natural and artificial lakes and marshes under the jurisdiction of the Commission. When the Shimon family donated portions of land now known as the Shimon Marsh Wetlands Complex to the State of Iowa, the family did so with a deed requirement that no motorized vessels be allowed on site. This restriction was never codified in Chapter 45, which is necessary to accurately enforce the property’s use requirements. The amendments add this restriction to Chapter 45.

Chapter 51 regulates the use of hunting blinds and decoys on game management areas, among other activities. The amendments clarify that the decoy regulations in subrule 51.6(3) apply to all decoys, not just to waterfowl decoys.

Chapter 52 establishes Iowa’s state game refuges. The Commission amends the chapter to correct an error that misclassifies two state game refuges as waterfowl refuges. The Commission and the Department of Natural Resources (Department) have considered—and regulated—portions of Ventura Marsh in Cerro Gordo County and portions of Crystal Hills in Hancock County as state game refuges for years, but they are misclassified in the chapter as waterfowl refuges. This is a nonsubstantive correction to prevent confusion for anyone reviewing Chapter 52.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 14, 2018, as **ARC 3627C**. A public hearing was held on March 6, 2018, at 12 noon in Conference Room 3 E&W, Wallace State Office Building, Des Moines, Iowa. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commission on April 12, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 561—Chapter 10.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on June 13, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 571—45.5(462A) as follows:

571—45.5(462A) Artificial marshes. A motorboat equipped with any power unit mounted or carried aboard the vessel may be operated on the following listed artificial marshes under the jurisdiction of the department of natural resources at a speed not greater than 5 miles per hour between January 1 and August 31 and with no speed restrictions between September 1 and December 31.

Bays Branch, Guthrie County
Big Marsh, Butler County
Brown's Slough, Lucas County
Cardinal Marsh, Winneshiek County
Dudgeon Lake, Benton County
Elk Creek Marsh, Worth County
Green Island, Jackson County
Hendrickson Marsh, Story County
Hooper Pond, Warren County
North Colyn, Lucas County
Otter Creek Marsh, Tama County
Princeton Area, Scott County
Riverton, Fremont County
Round Pond, Johnson County
South Colyn, Lucas County
Sweet Marsh, Bremer County
Walnut Creek Marsh, Ringgold County
Willow Slough, Mills County
Woodpecker Marsh, Wayne County

~~Nothing in this rule is to be construed as limiting motorboat horsepower on natural marshes under the jurisdiction of the department of natural resources.~~

ITEM 2. Adopt the following **new** rule 571—45.6(462A):

571—45.6(462A) Natural marshes.

45.6(1) General use. There shall be no horsepower limitations on vessels operated on natural marshes unless otherwise specified by subrule 45.6(2).

45.6(2) Limitations. The following vessel type, size, or horsepower restrictions shall apply as designated:

Shimon Marsh Wetlands Complex, Pocahontas County—nonmotorized vessels only.

ITEM 3. Amend subrule 51.6(3) as follows:

51.6(3) Use of ~~waterfowl~~ decoys. The use of ~~waterfowl~~ decoys on any game management area, except on Pool 14 downstream of the Upper Mississippi River National Wildlife and Fish Refuge (River Mile 502) near Princeton, Iowa, and on Pools 15, 16, 17, and 18 of the Mississippi River, is restricted as follows:

Decoys are prohibited from one hour after sunset until midnight each day, and decoys cannot be left unattended for over 30 minutes between midnight and one hour after sunset. Decoys shall be considered as removed from an area when they are picked up and placed in a boat, vehicle or other container at an approved access site.

ITEM 4. Amend subrules 52.1(2) and 52.1(3) as follows:

52.1(2) Wildlife refuges. The following areas under the jurisdiction of the department of natural resources are established as wildlife refuges where posted. It shall be unlawful to hunt, pursue, kill, trap, or take any wild animal, bird, or game on these areas at any time, and no one shall carry firearms thereon, except where and when specifically authorized by the department of natural resources. It shall also be unlawful to trespass in any manner on the following areas, where posted, during the dates posted, both dates inclusive, except that department personnel, law enforcement officials, and other persons specifically authorized by the department of natural resources may enter the area at any time in performance of their duties, and hunters, under the supervision of department staff, may enter the area when specifically authorized by the department of natural resources.

<u>Area</u>	<u>County</u>
South Twin Lake	Calhoun
Ventura Marsh	Cerro Gordo
Allen Green Refuge.	Des Moines
Henderson	Dickinson
Ingham Lake	Emmet
Crystal Hills	Hancock
Hawkeye Wildlife Area.	Johnson
Colyn Area.	Lucas
Gladys Black Eagle Refuge	Marion
Five Island Lake	Palo Alto
Polk City Refuge	Polk
Smith Area	Pottawattamie
Green Valley Lake	Union

52.1(3) Waterfowl refuges. The following areas under the jurisdiction of the department of natural resources are established as waterfowl refuges where posted. It shall be unlawful to hunt ducks and geese on the following areas, where posted, at any time during the year. It shall be unlawful to trespass in any manner on the following areas, where posted, during the dates posted, both dates inclusive, except that department personnel, law enforcement officials, and other persons specifically authorized by the department of natural resources may enter the area at any time in performance of their duties, and hunters, under the supervision of department staff, may enter the area when specifically authorized by the department of natural resources.

<u>Area</u>	<u>County</u>
Lake Icaria	Adams
Pool Slough Wildlife Area	Allamakee
Rathbun Area	Appanoose, Lucas, Wayne
Sedan Bottoms	Appanoose
Sweet Marsh	Bremer
Big Marsh.	Butler
Union Hills.	Cerro Gordo
Ventura Marsh	Cerro Gordo

Round Lake	Clay
Jemmerson Slough Complex	Dickinson
Forney Lake	Fremont
Riverton Area	Fremont
Dunbar Slough	Greene
Bays Branch	Guthrie
Crystal Hills	Hancock
Eagle Flats	Hancock
Eagle Lake	Hancock
Green Island Area	Jackson
Muskrat Slough	Jones
Red Rock Area	Marion, Polk, Warren
Badger Lake	Monona
Chichaqua Area	Polk
McCausland	Scott
Princeton Area	Scott
Otter Creek Marsh	Tama
Rice Lake Area	Winnebago
Snyder Bend Lake	Woodbury
Elk Creek Marsh	Worth

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